



# MAINE REAL ESTATE NEWS

VOL. 26, NO.1

SPRING 2000

## From the Director's Desk

**Carol J. Leighton**

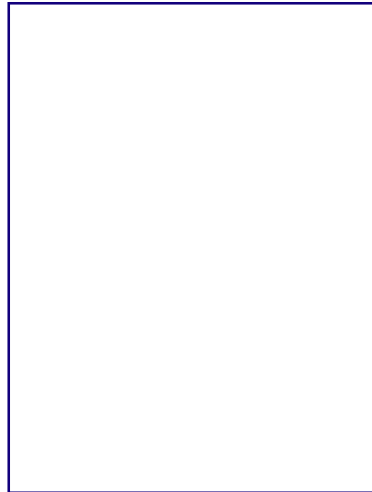
**A**GENCY RELATIONSHIPS FORM #2 is now available online at the Commission's home page and may be sent electronically to prospective buyers and/or sellers in compliance with Chapter 330, Section 9 of the Commission's rules. Instructions on accessing and sending Form #2 are included below. It is important to note that Form #2 is write protected and as such you will not be able to fill in the presentation section of the form online. To comply with the requirement of completing the section of the form relating to its presentation (see paragraph D of the rule), licensees will need to provide the information required, i.e. date of presentation, name of buyer/seller, licensee's name and company name, as part of the email message accompanying the Form #2 attachment. Finally, to comply with paragraph F of the rule, please remember to retain a copy of the electronic transmission for two years from the date of presentation.

**T**o access Form #2, you may go directly to the Commission's homepage using the following address: <http://www.state.me.us/pfr/led/rec/index.htm> OR go to the State of Maine homepage at <http://www.state.me.us> and click on State Government, then State Agencies. On the alphabet bar, click the letter "R", then Real Estate Commission.

Form #2 resides on the homepage. You will be able to open the form immediately if you have Acrobat Reader 4.0 or above installed on your computer. If you do not already have the reader installed, you must do so by clicking on the Acrobat icon at the foot of the page and following the pop-up instructions. Acrobat Reader must be installed in order to be able to open Form #2.

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## CHAIRMAN-ELECT WILLARD E. RILEY, II DECEMBER 1999



At its December 1999 meeting, the Commission elected Willard "Bill" E. Riley, II as its chairman for the coming year, succeeding outgoing chair, David Kitchen. Bill was first appointed to the Commission February 20, 1998 and is currently serving his first term as a Commission member.

Bill began his real estate career as a salesman while in college in 1981 and served as designated broker for Epstein Commercial Real Estate from 1995 to 1998. In 1999, Bill established his own company, Riley Commercial, specializing in commercial sales, leases and appraisals.

He currently serves on the Board of Directors of the Maine Commercial Association of REALTORS®, the Board of Directors of the Maine Council on Franchising and is active in many civic and social organizations. He is a Captain in the Maine Army National Guard, serving as Commander of Company A, 133rd Engineer Battalion.

Bill earned a BA in business administration at the University of Maine Orono and is currently pursuing a Master's degree on a part-time basis.

## NEW COMMISSION MEMBER CELESTE VIGER

August 31, 1999, Celeste Viger of Portland was appointed the Commission's newest public member by Governor Angus King. Celeste replaces former public member John Harris of Newcastle.

Celeste is currently Public Affairs Manager for Bell Atlantic in Portland and has also served as finance director for the Angus King for Governor Committee and the Governor's Inaugural Committee. Celeste participated in the Teach for America program in Mississippi helping place teachers in areas of need in the US, teaching English to special needs students and securing grant funding to enhance computer-assisted reading/writing programs.

She graduated with a BA in English and Political Science from Saint Michael's College in Colchester, Vermont and also received the Outstanding Female Graduate Award. She is a Graduate Scholarship Recipient from the University of Southern Maine and earned her MA in Public Policy and Management from the Muskie School of Public Service, USM.

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**FORM #2 ONLINE** ... from page one

The preferred method of emailing Form #2 is to do so directly from the homepage without first opening the document. Click the mail icon on your internet browser toolbar then click the option to "Send Link". If you do not have the email icon, go to "File", "Send", "Link by Email". Both methods will attach the homepage address to your email message, including the links to Form #2 and Acrobat Reader. This ensures that your recipient has access to both Acrobat Reader and Form #2.

Form #2 cannot be saved to your harddrive. The Commission recommends that you create a short-cut to be placed on your desktop menu to give you instant access to the Commission's homepage and Form #2.

Of course, you are free to print as many copies of Form #2 as needed and may do so by opening the document and then printing your copies.

The Commission uses the Windows NT operating system with Windows Explorer internet browser. You may find that you need to alter your method of access and emailing procedures from that described above if you use a different system and/or browser. The Commission cannot "troubleshoot" for you should you have problems and recommends that you contact your computer or internet helpline for assistance.

As always, Form #2 is available in hard copy from the Commission.

**TIPS FOR RENEWAL**

To avoid last minute delays

- 1- Upon receiving your renewal notice, put it in a safe spot that you will easily remember at renewal time.
- 2- Check with the Commission if you are unsure of your continuing education credits before mailing your renewal.
- 3- Double check to be sure you have completed the question regarding criminal conviction history and signed/dated your notice.
- 4- Be sure you have enclosed the correct payment. If paying by credit card, be sure to include your card type, number and card expire date.

**New Waterfront Property Brochure from DEP**

In a recent report to the Legislature, the Department of Environmental Protection made recommendations for steps to increase the environmental awareness of waterfront property owners. While no additional laws were passed this session, the DEP has produced a brochure addressing several concerns, including the need for property owners to comply with local land use laws; the need to maintain septic systems and to identify system failures; and the need to maintain naturally vegetated buffer strips along the edge of lakes, rivers, streams and coastal waters.

The Department will be sending copies of the brochure to all real estate agencies later this spring and encourages its reproduction and distribution to any prospective or recent buyer of waterfront property, including property containing streams, as well as

frontage on lakes, rivers and marine waters. The brochure includes addresses and phone numbers for local DEP offices for further information. The DEP will also be making the information available over the internet via the Land & Water web page at: <http://janus.state.me.us/dep/blwq/>

**CONTINUING EDUCATION NEWS****Core Course 2000 Update**

At its December 1999 meeting, the Commission approved "Core Course 2000" as the new core requirement for renewal or activation of a license. There are 2 versions of the course; "Core Course 2000 for Brokers and Associate Brokers" and "Core Course 2000 for Designated Brokers". **Core Course 2000 is required for all licenses that renew or activate on or after July 1, 2000.**

The 2 versions of the former core course "Property Disclosures" will satisfy the core requirement for licenses activated or expiring and renewed before July 1, 2000. Beginning July 1, however, only the new course will be accepted as meeting the core requirement.

The specific course you need to take to satisfy the core requirement will depend on the type of license you hold at the time of renewal. If, for instance, you are currently a broker but change to designated broker during your license term and are a designated broker at renewal time, you will need to take the designated broker version of the course. If you hold a broker or associate broker license at the time of renewal, you will need to take the version designed for those license types.

The core courses are available from a number of continuing education providers around the state. The Commission prepares a list of live course offerings that includes the core courses as well as other Commission approved courses. The list also includes the names and phone numbers of providers who offer courses by correspondence. You may contact Debbie, Vickie or Laurel at the numbers from the staff listing on page 8 to request a copy of the list.

## CURRENT CASES *Karen L. Bivins, Deputy Director*

*Maine Real Estate News* publishes names of licensees who have received disciplinary action from the Maine Real Estate Commission which resulted in suspension or revocation of a license.



On May 13, 1999 the members of the Commission accepted a consent agreement entered into by the Director and David V. Miller of Lewiston, Maine.

On September 10, 1998 the members of the Commission accepted a consent agreement entered into by the Director and Miller in which he acknowledged that he failed to respond in a truthful manner to a question asked as part of his license application in that he failed to disclose a July 26, 1978 conviction for assault. Under the terms of that agreement, Miller paid a fine of \$100.00.

On December 15, 1998 Miller's designated broker notified the Director that Miller was no longer affiliated with the agency and returned his sales agent license. The same day, Miller sent to the Director a letter and attached "Judgment and Commitment" disclosing that he had been convicted on December 2, 1998 of 2 counts of "Evasion of Maine Income Tax" and 1 count of "Forgery" for which he was sentenced to 3 years and 45 days imprisonment, all but 60 days suspended, 4 years probation, and ordered to make restitution of \$29,000.00.

Miller was found in violation of 32 M.R.S.A. §§ 13067(1)(A) and (C). The Commission members ordered the immediate revocation of Miller's sales agent license.



On August 26, 1999 the members of the Commission ratified their decision reached after a hearing on July 22, 1999 involving David J. Hodgkin of Poland, Maine.

On January 21, 1999 Hodgkin entered into a consent agreement with the Director in which he agreed to provide written reports regarding his

brokerage activity for a one year period. The reports were to be reviewed and signed by his designated broker. The first report was due on April 1, 1999, with subsequent reports due on July 1, 1999, November 2, 1999, and March 2, 2000.

The April 1, 1999 report was not received. Hodgkin was notified by mail to submit the report immediately or face further disciplinary action. No response was received from Hodgkin.

Hodgkin was found in violation of 32 M.R.S.A. § 13067(1)(M). The Commission members ordered the immediate suspension of Hodgkin's sales agent license until such time as he complies with the terms of the January 21, 1999 consent agreement. In addition, Hodgkin was ordered to pay a fine of \$300.00.



On November 18, 1999 the members of the Commission ratified their decision reached after a hearing on October 28, 1999 involving Robert L. Tinsman of South Portland, Maine. Tinsman was the designated broker of the agency.

Beginning on July 21, 1998 the Commission staff requested that Tinsman submit a copy of each of the documents involved in a particular transaction, as well as copies of the blank forms used by the agency and the written policy concerning agency relationships. Tinsman was again asked to submit the documents and policy on September 9, 1998, February 23, 1999 and March 31, 1999. No responses were received. On April 16, 1999 the Director offered a consent agreement to Tinsman addressing the failure to produce the requested documents.

Tinsman responded on April 29, 1999 with a letter explaining his personal circumstances for the preceding year, and included a copy of the property disclosure form used by the agency. The form was not in compliance with current requirements in each section of the form. On May 7, 1999 the Commission staff requested additional forms and the written policy, and explained to Tinsman that the property disclosure form he had submitted was not in compliance with current requirements.

On June 16, 1999 Tinsman's son

wrote to the Director and included the same property disclosure form submitted previously. The Director wrote to Tinsman's son on June 22, 1999 advising him of which additional forms had not been provided by Tinsman.

On June 29, 1999 an office examination and trust account audit were conducted at Tinsman's agency. It was found that Tinsman failed to maintain records and supporting documents sufficient to verify the adequacy and proper use of the trust account. Many of the transaction files were unaccounted for and those that were reviewed did not contain complete and appropriate documentation. The written policy did not accurately identify and describe the types of real estate brokerage agency relationships in which the agency may engage, nor did it include the procedures to be followed in engaging in those relationships. In addition, it was found that Tinsman did not exercise a reasonable level of supervision.

Tinsman was found in violation of 32 M.R.S.A. §§ 13067(1)(F), (H), (I)(3), and (L); 13178; 13179; 13277; and Chapter 320 Sections 1(B), 3(E), (F) and (G) of the Maine Real Estate Commission Rules. He was ordered to provide an immediate and proper accounting of the trust account. His broker license was suspended until all the terms set by the Commission members are met. Before reissuance of his broker license, Tinsman must submit a report of the corrective steps taken to accurately maintain records and supporting documents for 3 years following consummation or termination of a transaction, submit an amended written policy accurately describing the types of representation and the procedures to be followed by agency affiliates, and successfully complete the course, "The Role of the Designated Broker."



On February 10, 2000 the members of the Commission ratified their decision reached after a hearing on January 13, 2000 involving Daniel J. Coyne of Portland, Maine. Coyne is an associate broker.



On June 30, 1999 Coyne submitted to the Commission a change of license application to affiliate to another agency. He also submitted a broker application which was denied because he had not been licensed as an associate broker for one year immediately preceding the date of application. Coyne's license had been pending since April 30, 1999 when he left his previous agency.

The broker application which Coyne submitted indicated that he had worked 40 hours a week as an associate broker from some undesignated date to April 30, 1999, and had 5 sales and 1 listing during that indefinite period. One of the transactions involved property in Massachusetts. The application did not include the signature of the designated broker. Coyne had completed, signed and dated the application on June 29, 1999. Coyne informed the Commission that he had filed the application prior to consulting with the designated broker. The designated broker eventually refused to sign the document, raising a number of questions about Coyne's representations on the form.

On July 8, 1999 Coyne pled guilty to Class E theft. The conviction was for the theft of materials from a commercial greenhouse late in the evening on April 19, 1999.

From 1996 through May 1999, Coyne suffered from addictions to prescription medications, which necessitated his participation in 3 different inpatient rehabilitation programs. Upon his July 8, 1999 conviction for theft, the sentencing court placed Coyne on a year's probation, conditions of which include refraining from use or possession of alcohol or illegal drugs, random testing for evidence of illegal drug use, and substance abuse counseling.

The Commission found that Coyne demonstrated bad faith by holding himself out as a real estate broker in a jurisdiction in which he was not licensed; failed to obtain in a timely manner required disclosure information relating to water supply, waste disposal, insulation and known hazardous materials; failed to provide to a prospective seller and buyer in a timely manner Disclosure of Agency Relationships

Form #1 on 2 different transactions; failed to protect and promote a client's interests by failing to complete a property disclosure form for property he listed; and demonstrated improper dealings in his handling of a transaction.

Coyne was found in violation of 32 M.R.S.A. §§ 13067(1)(A), (F) and (G), and Chapter 330 Sections 9(B) and 16-19 of the Maine Real Estate Commission Rules in effect at that time. Coyne was ordered to complete the current core course within 30 days, submit monthly brokerage reports for 2 years, submit quarterly counseling reports for 2 years, and not to apply for a broker license for 2 years. Coyne's associate broker license was ordered suspended until he submitted evidence of suitable arrangements for compliance with the terms of the order. On February 9, 2000 Coyne submitted evidence of suitable arrangements for compliance.



*Maine Real Estate News* publishes summaries of current cases as information to licensees to help avoid future problems of a similar nature.



On June 10, 1999 the members of the Commission accepted a consent agreement entered into by the Director and a designated broker who acted as a disclosed dual agent in a transaction.

The designated broker listed property for sale with his agency, completing an appointed agent disclosure and agreement form stating that he would be the appointed agent of the sellers. The designated broker discussed disclosed dual agency with the sellers, and they verbally agreed to the practice. However, no disclosed dual agency consent agreement was prepared. The designated broker did not appoint another licensee to act as designee.

Subsequently, the designated broker entered into an agreement to represent buyers interested in purchasing the property. The designated broker completed an appointed agent disclosure and agreement form stating that he would be the appointed agent of the

buyers. Disclosed dual agency was discussed and the buyers verbally agreed to the practice. However, no disclosed dual agency consent agreement was prepared. The designated broker did not appoint another licensee to act as designee.

Sometime after the transaction, the designated broker became aware of the requirement that a disclosed dual agency consent agreement must be presented to a client at the time of entering into a brokerage agreement. The designated broker changed the procedures followed by agency affiliates.

The designated broker was found in violation of 32 M.R.S.A. § 13067(1)(F), and Chapter 330 Sections 7 and 8(A)(3) of the Maine Real Estate Commission Rules; agreed to pay a fine of \$500.00 and to appoint a licensee to act as his designee for any brokerage agreement for which he is the appointed agent.



On July 22, 1999 the members of the Commission accepted a consent agreement entered into by the Director and a designated broker who failed to adopt a written policy that accurately described procedures to be followed by agency affiliates.

As part of an investigation of a complaint, the designated broker submitted for review his written agency policy. The policy stated that the company would represent buyers and sellers and would not allow dual agency. The policy went on to describe an individual agent of the company representing a buyer or a seller, but did not include any information about practicing appointed agency.

The Commission staff sent a letter to the designated broker explaining that the policy was unclear regarding the practice of the agency affiliates. The letter pointed out that several sections of the policy described appointed agency practices but the policy did not include that as one of the types of representation practiced by the agency, nor did the policy include the procedures to be followed in appointed agency. The designated broker was asked to revise the policy to accurately reflect the policy of the agency and to submit the revised version for review.

The designated broker submitted a revised policy which included some changes to some paragraphs, but did not

clearly state the policy of the agency nor the procedures to be followed in carrying out that representation. In addition, the policy did not include procedures intended to prevent mishandling of information through formal and informal sharing of information, arrangement of office space, and personal relationships of affiliated licensees.

The designated broker was found in violation of 32 M.R.S.A. §§ 13277 and 13067(1)(F), and Chapter 320 Section 1(B) of the Maine Real Estate Commission Rules; agreed to amend his written company policy to accurately describe the types of representation practiced by the agency and the procedures to be followed in representing buyers and seller, and to complete a course in license law.



On July 22, 1999 the members of the Commission accepted a consent agreement entered into by the Director and an associate broker who failed to provide information about the air radon level in the property her client was purchasing.

The associate broker was representing a buyer who entered into a contract to purchase property. The sale was contingent upon several inspections, including a radon air quality inspection satisfactory to the buyer. The test was administered and the results showed a level of 14.6 pCi/L in the basement. The test report stated that the average year-round residential indoor level was estimated at 1.3 pCi/L, included a notice that the EPA maximum air radon level is 4.0 pCi/L, and that the EPA recommends fixing houses with a level greater than 4.0.

The associate broker discussed the report with her client, telling the buyer that the radon level was high. It was not clear whether the associate broker told the buyer that "high" meant above the maximum EPA recommended level, nor could it be shown that the associate broker gave the buyer a copy of the report. There was no discussion about remedying the air radon quality prior to closing.

About two years after closing on the sale, the buyer listed the property

for sale. The buyer called the associate broker for a copy of the radon test results and discovered that the level was 14.6 pCi/L at the time of the purchase. The buyer had another test conducted which showed a level of 68.3 pCi/L in the basement and 37.5 pCi/L in the buyer's bedroom.

During the investigation it was learned that the associate broker had no standard of practice regarding verification that inspections are completed satisfactorily and in accordance with the terms of sales agreements. The associate broker confirmed that sometimes she has a buyer sign a contingency release and other times simply allows the time period to expire for meeting the contingency.

The associate broker was found in violation of 32 M.R.S.A. § 13067(1)(G), agreed to pay a fine of \$500.00, and agreed to submit to the Director a written statement, signed by her designated broker, describing her standard of practice for verifying that contingencies benefiting a client contained in a contract for the sale of property are completed satisfactorily.



On August 26, 1999 the members of the Commission accepted a consent agreement entered into by the Director and a sales agent who failed to provide a brokerage report.

On February 25, 1999 the sales agent entered into a consent agreement with the Director in which she agreed to provide written reports of her brokerage activity for specific time periods. Each report was to be reviewed and signed by the designated broker. The first report was due on July 1, 1999. On August 7, 1999 the sales agent sent an acknowledgement signed by the designated broker, stating that the licensee had been working as a sales agent. No further explanation of brokerage activities was included.

The sales agent was found in violation of 32 M.R.S.A. § 13067(1)(M), agreed to pay a fine of \$100.00 and to provide detailed reports of her brokerage activity for the remaining reporting time periods.



On August 26, 1999 the members of the Commission ratified their decision reached after a hearing on July 22, 1999 involving an associate broker who failed to

verify information for her client.

The associate broker represented a buyer interested in purchasing property in a particular area. The buyer was very concerned about the expenses involved in the purchase, including the amount of the property taxes.

A property was found that was listed with another agency. The listing agent provided a property disclosure form as well as a data form. The data form stated that the taxes for the '97-'98 tax year were \$657.00. Since the standard of practice in the area was for listing agents to confirm tax information with the town, the associate broker did not make any effort to verify the information.

The buyer and seller entered into an agreement for the purchase of the property, at a higher price than the buyer's original price range. Sometime before the closing, the associate broker became aware that the tax map and lot number on the data form were incorrect. The associate broker obtained the correct numbers and modified the form, but did not question or take steps to verify that the tax information was correct.

At the closing, the buyer learned that the taxes for the property were higher than what appeared on the data form, and consequently the monthly mortgage payment was higher than the buyer anticipated. After the closing, the buyer contacted the town and learned that the tax figure provided on the data form was for the '95-'96 tax year, and the taxes had increased in each subsequent year.

The associate broker was found in violation of 32 M.R.S.A. § 13067(1)(G) and was ordered to pay a fine of \$168.00.



On September 23, 1999 the members of the Commission accepted a consent agreement entered into by the Director and a designated broker who failed to provide to the Director requested documents.

As part of an investigation, a designated broker submitted for review his written agency policy. On January 6, 1999 the designated broker was requested to submit further information or a copy of a revised policy. A second request for the information was made on

March 9, 1999.

On March 23, 1999 the designated broker submitted a revised policy for review. Another letter was sent to the designated broker on March 23, 1999, referring to several sections of the policy that were unclear and needed to be changed. The designated broker was instructed to submit a revised policy for review.

On May 24, 1999 and June 10, 1999, requests for the revised policy were sent to the designated broker. No response was received. On July 30, 1999, the Director sent the designated broker a proposed consent agreement. On August 3, 1999 the designated broker submitted the revised policy, addressing the issues raised in the letter sent to him on March 23, 1999.

The designated broker was found in violation of 32 M.R.S.A. § 13067(1)(L) and agreed to pay a fine of \$150.00.



On October 28, 1999 the members of the Commission accepted a consent agreement entered into by the Director and an associate broker who was convicted of a crime. The associate broker pled guilty to a Class D crime of "Theft by Deception" as a result of accepting State assistance in the form of AFDC and food stamps for a period of four months in 1992, at a time when her husband was employed.

The associate broker was found in violation of 32 M.R.S.A. §§ 13067(1)(A) and (C), agreed to submit brokerage reports for one year, and to submit probation reports for the term of her probation.



On December 9, 1999 the members of the Commission accepted a consent agreement entered into by the Director and a sales agent who failed to disclose a criminal conviction. The sales agent stated on her sales agent license application that she had not been convicted of a crime by any court. After the license was issued, the Director learned that the sales agent had been convicted in 1985 of the Class D crime of criminal restraint by a parent. After being contacted by the Director, the sales agent submitted an amendment to the application disclosing the conviction.

The sales agent was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191, and agreed to pay a fine of \$400.00.



On December 9, 1999 the members of the Commission accepted a consent agreement entered into by the Director and a sales agent who failed to disclose a criminal conviction. The sales agent stated on his sales agent license application that he had not been convicted by any court of any offense. After the license was issued, the Director learned that the sales agent had been convicted in 1990 of the Class D crime of criminal mischief. After being contacted by the Director, the sales agent submitted an amendment to the application disclosing the conviction.

The sales agent was found in violation of 32 M.R.S.A. §§ 13067(1)(A) and 13191, and agreed to pay a fine of \$100.00.



On January 13, 2000 the members of the Commission accepted a consent agreement entered into by the Director and a sales agent who failed to disclose a criminal conviction. The sales agent stated on her sales agent license application that she had not been convicted by any court of any offense. After the license was issued, the Director learned that the sales agent had been convicted in 1991 of the Class D crime of theft. After being contacted by the Director, the sales agent submitted an amendment to the application disclosing the conviction.

The sales agent was found in violation of 32 M.R.S.A. § 13067(1)(A) and agreed to pay a fine of \$400.00.



On January 13, 2000 the members of the Commission accepted a consent agreement entered into by the Director and a sales agent who failed to disclose a criminal conviction. The sales agent stated on his sales agent license application that he had not been convicted of a crime by any court, other than a minor traffic violation. After the license was issued, the Director learned that the sales agent had been convicted in 1998 of the Class D crime of criminal mischief. After being contacted by the Director, the sales agent submitted an

amendment to the application disclosing the conviction.

The sales agent was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191(1), and agreed to pay a fine of \$100.00.



On January 13, 2000 the members of the Commission accepted a consent agreement entered into by the Director and a designated broker who allowed an associate broker to conduct brokerage on behalf of the agency without being licensed with that agency.

The designated broker is licensed with his own agency in Brunswick and also acted as designated broker for another agency in Farmingdale. The Farmingdale agency closed in January 1999 but the designated broker failed to notify the Commission. At that time, an associate broker and a sales agent were licensed with the Farmingdale agency. The sales agent discontinued conducting brokerage but the designated broker did not return her license to the Commission. The associate broker began working on behalf of the Brunswick agency without properly affiliating to that agency. A change of license application for the associate broker was not submitted to the Commission until September 8, 1999. Between January and September 1999 the associate broker showed property for the Brunswick agency approximately 157 times, prepared 25 purchase and sale agreements, and over 11 advertisements appeared showing the associate broker as an affiliate of the Brunswick agency.

The designated broker was found in violation of 32 M.R.S.A. §§ 13067(1)(I)(2), 13175, 13179, and 13180. He agreed to pay a fine of \$3,000.00.



On February 10, 2000 the members of the Commission accepted a consent agreement entered into by the Director and a broker who failed to report a conviction within 10 days of the conviction.

The broker has been licensed since December 21, 1987. On February 19, 1999 the broker was convicted of the Class D crime of assault. The broker did not notify the Commission about the conviction until December 20, 1999 as



part of the application to renew the broker license.

The broker was found in violation of 32 M.R.S.A. § 13195 and agreed to pay a fine of \$100.00.



On February 10, 2000 the members of the Commission accepted a consent agreement entered into by the Director and an associate broker who had a standard of practice of presenting documents at an incorrect point during transactions.

The associate broker was contacted by a buyer looking for property to purchase. The associate broker showed the buyer a property that was listed by another agent in the office. Two days later the buyer met with the associate broker at the agency to prepare a written offer to purchase the property. In completing the offer, the associate broker filled in the section stating who the listing agent and selling agent represented by inserting the word "seller." The associate broker also gave the buyer a Disclosure of Agency Relationships Form #1 and a disclosed dual agency consent agreement, both of which the buyer signed. In the transaction, the associate broker was acting as a subagent of the seller, and did not represent the buyer. The associate broker's standard of practice prior to the consent agreement was to give everybody, whether a client or a customer, a Form #1 and a disclosed dual agency consent agreement at the time that the individual was actually in the agency office.

The associate broker was found in violation of 32 M.R.S.A. §§ 13067(1)(A), (F), (H), and 13279; and Chapter 330 Section 9 of the Maine Real Estate Commission Rules in effect at that time. He agreed to pay a fine of \$300.00 and to complete one educational course.



### DON'T FORGET...

Whenever you make a change to your license, you must notify the Commission within 10 days of the change by filing the appropriate application and fee.

### REVOCATION ANNOUNCEMENT

On May 18, 2000 the Real Estate Commission revoked the designated broker license of Bruce C. Bergendahl of Auburn, Maine. The revocation was a result of an order received from the Department of Human Services for Noncompliance with a Support Order. Based upon the non-compliance with a legal order of support, the Commission was required by law to take action against Bergendahl's license.

### LICENSE STATISTICS

License Numbers as of June 1, 2000

#### AGENCIES

Association	7
Corporation	432
Individual Proprietor	641
Limited Liability	34
Partnership	19
Limited Partnership	1
Branch Office	105
Total Agencies	1239

#### LICENSEES

Designated Broker	1097
Broker	1124
Associate Broker	1348
Sales Agent	819
Inactive Broker	1084
Inactive Assoc. Broker	1421
Total Licensees	6893
<b>TOTAL ALL LICENSES</b>	<b>8132</b>



### LATE RENEWAL... SHOULD YOU WORRY?

You don't have enough continuing education credits, you've been on vacation, business is good and you've been too busy or it just plain slipped your mind. Whatever the reason, you aren't able to renew your license on time.

Should you worry about it? You bet. At the very least, you'll be asked to furnish information about brokerage activity conducted during the time your license was expired. You may be asked to enter into a consent agreement and pay a fine if you have conducted brokerage during the expired period. The amount of the fine will vary depending on the length of the expired period and the volume of activity.

From January 1999 to May 2000, 139 licensees failed to renew on time. Most reported no activity and no further action was taken, others did not respond to the request for information and were required to appear before the Commission members in a hearing to address the issue and a few reported that they did conduct brokerage activity and entered into consent agreements with the Commission.

Between May 27, 1999 and January 13, 2000, the members of the Commission have accepted 4 consent agreements, all of which involved licensees who failed to renew their licenses before the expiration date and continued conducting brokerage while not properly licensed, or conducted brokerage on behalf of an agency without being properly licensed with that agency.

The expired periods varied from 2 days to 238 days. Fines were imposed ranging from \$100.00 to \$2,500.00.

**Moral of the Story:** Be sure to renew your license on time.

**COMMISSION MEMBERS**

Willard E. Riley II, Chairperson

☞ Bangor ☞

David C. Kitchen, Industry

☞ Yarmouth ☞

Jeffrey S. Mitchell, Industry

☞ Farmington ☞

Norma M. Rice, Industry

☞ Kittery ☞

Celeste M. Viger, Public

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**ARELLO WEB SITE**

The Association of Real Estate License Law Officials is now on-line. The site is primarily aimed at regulatory bodies, but includes a wealth of interesting and useful information for licensees as well. For instance, you can find out about ARELLO certification of continuing education courses and efforts to obtain states' acceptance of such courses at face value, get information about regulatory developments across the US and around the world, accounts of other states' struggles with agency issues, information about fair housing and links to other real estate related web sites.

ARELLO also offers for sale three publications that may be of interest to licensees, including a newsletter reporting on hot topics, a digest of real estate license laws and current issues and a directory of real estate regulatory bodies.

Visit ARELLO at [www.arello.org](http://www.arello.org).

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